

LAW OFFICES
McCARTHY, SWEENEY & HARKAWAY, P. C.
1750 PENNSYLVANIA AVE., N. W.
WASHINGTON, D. C. 20006
TELEPHONE (202) 393-5710
TELECOPIER (202) 393-5721

DOUGLAS M. CANTER
JOHN M. CUTLER, JR.
WILLIAM I. HARKAWAY
STEVEN J. KALISH
HARVEY L. REITER
DANIEL J. SWEENEY
KATHLEEN L. MAZURE

ANDREW P. GOLDSTEIN
Counsel
CHARLES J. MCCARTHY
Counsel

3-082A055

March 23, 1993

Interstate Commerce Commission
12th & Constitution Avenue, N.W.
Washington, DC 20423

18176

RECORDATION NO. FILED 1425

MAR 23 1993 2:25 PM

Attention: Mildred Lee

INTERSTATE COMMERCE COMMISSION

Dear Ms. Lee:

Enclosed for filing recordation with the Commission are certified true copy and two counterparts of the document described below to be recorded under Section 11303 of the Interstate Commerce Act, 49 U.S.C. § 11303.

This document is a LEASE, dated November 1, 1992, between Louis Dreyfus Corporation and Northbrook Rail Corporation. This is a primary document.

The names and addresses of the parties to this document are as follows:

Lessor:

Louis Dreyfus Corporation
10 Westport Road
Wilton, CT 06895-0810

Lessee:

Northbrook Rail Corporation
2025 South Arlington Heights Road
Arlington Heights, IL 60005

Counterpart
[Signature]

MAR 23 2 23 PM '93
NOTOR OF EXACTING UNIT

The equipment covered by this document is two hundred fifty seven (257) covered hopper cars bearing UMP markings.

This document should be indexed as:

Lease Dated November 1, 1992 between Louis Dreyfus Corporation (Lessor) and Northbrook Rail Corporation (Lessee).

This document should be cross-indexed to Nos. 16001, 16002, 16834, and 17419.

Also, enclosed please find a check in the amount of \$16.00 as the filing fee required by 49 C.F.R. 1177.3.

Sincerely,

A handwritten signature in dark ink, appearing to read "A.P. Goldstein". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Andrew P. Goldstein
Attorney for
Louis Dreyfus Corporation

Enclosures

APG/rmm

MAY 23 1993 2-25 PM

INTERSTATE COMMERCE COMMISSION

LOUIS DREYFUS CORPORATION
LEASE OF COVERED HOPPER CARS

THIS AGREEMENT is made and entered into this 1 st day of November, 1992, by and between LOUIS DREYFUS CORPORATION, a New York Corporation, hereinafter called "LESSOR," and Northbrook Rail Corporation, an Illinois Corporation, hereinafter called "LESSEE."

WITNESSETH:

WHEREAS, LESSOR is willing to lease and LESSEE is desirous of leasing the railway covered hopper cars identified in Schedule A hereto, (the "CARS").

NOW THEREFORE, in consideration of the premises and of the covenants, promises, and undertakings of the parties, as herein-after contained, it is agreed as follows:

SECTION 1. TERM. The term of this AGREEMENT shall be for the period specified in Schedule B hereto. Notwithstanding the actual EFFECTIVE DATE of this AGREEMENT for any of the CARS, this AGREEMENT shall terminate on the date ("TERMINATION DATE") set forth in Schedule B hereto for all CARS subject hereto.

SECTION 2. RENT. LESSEE will pay rent to LESSOR for the use of each of the CARS during the term of this AGREEMENT at the rate per CAR per month set forth in Schedule B hereto, until actual return of the CARS to a point in the Continental United States designated by LESSOR. If the Car is returned in a condition that is unsuitable for loading grain such ~~cars~~ will remain on rent for the account of LESSEE until such ~~cars~~ is made suitable for loading. * The per diem rental rate for a CAR for a given month shall be determined by prorating the monthly rate over the number of days in that month. Payments shall be due on the first day of each month for the same month. LESSEE shall maintain or have maintained separate, complete and accurate books and records of mileage and movement relating to the CARS in the same form and to the same extent as customary in the LESSEE'S railcar leasing and management business, and retain such books and records for a period of not less than three (3) years. LESSEE shall make available such books and records for inspection by LESSOR, or its representatives, upon 48 hours prior written notice, during reasonable business hours, and LESSEE shall allow LESSOR, or its representatives to make photocopies thereof at LESSOR'S expense.

SECTION 3. USE. A. Subject to provisions of this AGREEMENT, LESSEE shall have exclusive use and control of the CARS during the term of this AGREEMENT, or extension thereof, pro-

* LESSEE shall have right to inspect any Car found unsuitable for loading prior to any repair or cleaning.

vided, however, that said CARS shall be used only within the Continental limits of the United States of America or, on a temporary and incidental basis, in Canada or Mexico; and LESSEE covenants that it does not anticipate that more than 10 percent of the CARS will be in Mexico at any one time.

B. LESSEE will preserve the CARS in good condition and will not alter the physical structure of any of the CARS or use the CARS for the transportation of corrosive lading. LESSEE may not change any of the marks, lettering, car initials, or exterior color of the CARS without the prior written permission of LESSOR, and then only on such terms and conditions as LESSOR reasonably may require, including, but not limited to, payment by LESSEE of the costs of making such changes and of returning the CARS to the exterior condition that they were in prior to making any such changes. Notwithstanding this Section 3B, LESSEE may change the marks on the CARS from "LDCX" to "UMP" and shall remark each of the CARS in such manner as LESSOR directs before the last loaded move of that CAR under this LEASE. LESSEE shall maintain in contrasting color the plate or stencil that is on each of the CARS that states "OWNED BY A LESSOR AND SUBJECT TO AN EQUIPMENT LEASE FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 11303". LESSEE shall notify LESSOR in writing of each change of any of the marks or any stencil on any of the CARS. When LESSEE remarks LESSOR'S marks, LESSOR will reimburse LESSEE for each of the CARS the lesser of (i) \$50.00 or (ii) half of LESSEE'S cost of that remarking. When LESSEE remarks CARS in accordance to LESSOR'S direction, LESSOR will reimburse LESSEE the lesser of (i) \$100.00 or (ii) half of LESSEE'S cost of that remarking.

C. LESSEE shall use the CARS upon each railroad over which the CARS shall move in accordance with all governmental rules and regulations, interchange rules of the Association of American Railroads ("AAR"), and then prevailing tariffs and other applicable rules and regulations to which each said railroad shall be a party; and if the operation or movement of any of the CARS during the term of this AGREEMENT shall result in charges being made against the LESSOR by any railroad or association, LESSEE shall pay LESSOR for such charges within ten (10) days of receiving notice that such charges are due.

D. LESSEE shall be liable for any demurrage, track storage, or detention charge imposed in connection with any of the Cars as well as loss of or damage to any CAR while on any private siding or track or on any private or industrial railroad or in the custody of any carrier not subject to the Association of American Railroads Rules for Interchange.

SECTION 4. MAINTENANCE. A. LESSOR shall be responsible for the cost of maintaining the CARS with the exception of the following:

LESSEE shall be responsible for the payment of all costs of repairs if any of said CARS are damaged due to use of the CARS in a manner other than that for which they were designed or due to the carrying of corrosive or abrasive materials, spilling of damaging materials, or the carrying of any material or performing any act which would damage a CAR or any part of it.

B. LESSEE at its own expense, shall either replace or reimburse Lessor for the cost of replacing any appliance or removable part, including, but not limited to hatch covers and gates, if destroyed, damaged, lost, removed, or stolen, unless the railroads transporting the CARS have assumed full responsibility for such loss or damages, or unless such loss or damage results from the negligence or omission of LESSOR, its agents or employees.

C. The LESSEE will cause the CARS or any of them, when in need of repair or maintenance, to be delivered to a mutually agreeable repair shop without cost to LESSOR, and to accept delivery of the CARS at that point when the repairs have been made. On any CAR needing such maintenance, rental shall abate five (5) days after the CAR is received in LESSOR'S designated shop, and until CAR is shipped from LESSOR'S designated shop. On any CAR repaired without prior notice by LESSEE to LESSOR or for LESSEE responsible repairs, rental will not abate.

D. LESSOR shall have the right by its authorized representatives to inspect the CARS at the sole cost and expense of LESSOR at such times as LESSOR deems necessary and LESSEE will cooperate with LESSOR in making the CARS available for such inspections upon reasonable notice and request at a limited number of locations and in reasonable quantities.

E. LESSEE shall not modify any of the CARS without LESSOR'S approval.

SECTION 5. DAMAGE OR DESTRUCTION. LESSEE promptly shall notify LESSOR of any damage to or destruction of the CARS. In the event any CAR is lost due to destruction or damage beyond economical repair in the sole judgment of LESSOR, LESSOR shall be entitled to all compensation by the responsible party for the loss of the CAR in accordance with applicable AAR Rules or otherwise. Upon confirmation that any CAR has been lost due to destruction or damage beyond economic repair, rental charges shall be abated and LESSOR shall issue credits to LESSEE for any and all rental payments made after the date of said destruction or damage. LESSOR, at its option, may or may not replace such destroyed or damaged CARS with cars of comparable size, ~~and~~ capacity which, if so replaced, shall then be deemed a CAR subject to this AGREEMENT. The rental for such replacement CAR

and same UMLER values,

shall commence to accrue on the date of arrival of the replacement CAR at a point mutually agreed upon by LESSOR and LESSEE.

SECTION 6. LIABILITY. Except for acts of negligence attributable solely to LESSOR or its Agents, LESSOR shall not be liable for (a) any loss of, or damage to, commodities or property, or any part thereof, loaded or shipped in the CARS, however such loss or damage may be caused or result, or (b) any loss or damage arising through injury to or death of persons or damage to any other property, however such loss or damage may be caused or result. LESSEE assumes responsibility for and agrees to indemnify LESSOR against the cost of defending any claims made against LESSOR and any judgments rendered against LESSOR for the events and occurrences described in this paragraph.

SECTION 7. TAXES. LESSOR shall pay all property taxes properly imposed or measured by such CARS on the mileage thereon, and will file all property tax reports relating thereto. LESSEE shall be responsible for and will indemnify LESSOR from all sales and/or use taxes, duties, and tariffs imposed by federal, state, municipal, and other governmental authority. LESSEE agrees to cooperate fully and promptly with LESSOR in providing to LESSOR any information which LESSOR may deem necessary to fulfillment of its obligations under this paragraph.

SECTION 8. DELIVERY OF CARS UPON TERMINATION. By the TERMINATION DATE or upon failure of LESSEE to cure the breach of any conditions or covenant herein by it within ten (10) days after written notice thereof by LESSOR to LESSEE, LESSEE shall deliver the CARS, free and clear of any and all transportation charges, to LESSOR at the point or points in the Continental United States designated by LESSOR. If LESSEE shall fail or refuse to deliver said CARS as aforesaid, LESSOR shall have the right, without further notice or demand, and in addition to and without constituting a waiver of any other remedy, claim or right hereunder or at law to: (i) if this AGREEMENT is terminated in accordance with provisions hereof, to take possession of said CARS wherever found, or (ii) either to take possession of said CARS wherever found without terminating this AGREEMENT, or to terminate this AGREEMENT and to take possession of said CARS wherever found, and in all cases with or without legal process, and remove them at LESSEE's expense, and for such purpose LESSEE authorizes LESSOR to enter any premises occupied by LESSEE or to issue such CAR relocation directives to railroads who may be in possession of the CARS. LESSEE agrees to indemnify and pay to the LESSOR reasonable attorney's fees and costs of repossession. Provided further that unless LESSEE delivers more than 90% of the CARS to a point designated by LESSOR (within the Continental United States) within 30 days after the termination date of the AGREEMENT, LESSOR shall have the right to impose on LESSEE a rental surcharge equal to twice the monthly rate, pro-rata for the number of days from (and including) the 30th day after the last day of the AGREEMENT to

and
* Cars will be returned in similar condition as when delivered, less normal wear and tear.

(but excluding) the date LESSEE delivers a CAR or CARS to LESSOR'S designated point.

And
LS

SECTION 9. SUCCESSORS AND ASSIGNMENT. This AGREEMENT and the terms and provisions and covenants herein contained shall extend to and be binding upon and shall inure to the benefit of the respective successors and assigns of the respective parties hereto. LESSOR recognizes that it is the intention of LESSEE to sublease the CARS to third parties without further notice to LESSOR. Notwithstanding any sublease, LESSEE shall continue to remain liable to LESSOR under all terms and conditions of this AGREEMENT. LESSEE, however, shall not otherwise encumber their leasehold interest in any of the CARS or assign or use this AGREEMENT as security, without prior written consent of LESSOR.

LS

SECTION 10. INSURANCE. LESSEE will, at all times prior to the return of the CARS to LESSOR, at LESSEE's own expense, cause to be carried and maintained public liability insurance in respect to the CARS against risks customarily insured against by LESSEE in respect of similar equipment owned or leased by LESSEE, but in any event consistent with prudent industry standards. The public liability insurance to be carried and maintained hereunder shall be in an amount not less than Three Million and NO/100 Dollars (\$3,000,000.00), with a deductible amount not greater than Fifty Thousand and No/100 Dollars (\$50,000.00) per each occurrence.

SECTION 11. ENTIRE AGREEMENT. This instrument, including all Schedules and Riders hereto, contains the entire agreement of the parties. It may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement or any waiver, change, modification, extension or discharge is sought.

SECTION 12. WAIVER. A waiver of a breach of any of the conditions, covenants or agreements in this lease by any party shall not be construed to be a waiver of any subsequent breach of any such conditions, covenant or other agreement.

SECTION 13. GOVERNING LAW. This AGREEMENT shall be subject to the laws of New York applicable to contracts to be performed entirely within that state.

SECTION 14. GENERAL. Sections 3B, 5, 6, and 7 shall survive the termination of this LEASE and the return of the CARS.

SECTION 15. NOTICES. Any notices required or made hereunder in writing shall be provided by certified mail, return receipt requested, to:

For LESSOR: Louis Dreyfus Corporation
10 Westport Road, P. O. Box 810
Wilton, CT 06897-0810
ATTENTION: Lawrence J. Greenhall

For LESSEE: Northbrook Rail Corporation
2025 South Arlington Heights Road, Suite 119
Arlington Heights, Illinois 60005
ATTENTION: Executive Vice President

IN WITNESS WHEREOF, LESSOR and LESSEE respectively, each pursuant to due corporate authority, have caused these presents to be executed and their respective corporate seals to be here onto affixed duly attested, as of the day and year first above written.

(CORPORATE SEAL)

ATTEST:

(LESSEE)

By: Carmen Paena

Date: 1-15-93

Northbrook Rail Corporation

By: Harold J. Kalczyk

(CORPORATE SEAL)

ATTEST:

By: [Signature]

Date: 2-1-93

LOUIS DREYFUS CORPORATION (LESSOR)

By: [Signature]

Lawrence J. Greenhall
Vice President

SCHEDULE A

Page 1 of Schedule A to Lease Agreement dated November 1, 1992 by and between LOUIS DREYFUS CORPORATION (LESSOR) and NORTHBROOK RAIL CORPORATION (LESSEE).

TYPE AND DESCRIPTION OF CARS: 4750 cu. ft. 100-ton Covered Hopper Cars, equipped with trough hatches and gravity outlets

NUMBER OF CARS: ~~250~~ 257 *And*

INTERIOR EQUIPMENT: None

SPECIAL LININGS: None

PERMITTED LADING USE: Grain and Grain Products

REPORTING MARKS AND NUMBERS: as listed on the following pages of Schedule A

(CORPORATE SEAL)

ATTEST:

By: Carmen Paera

Date: 1-15-93

NORTHBROOK RAIL CORPORATION
(LESSEE)

By: Harold L. Kilgore

(CORPORATE SEAL)

ATTEST:

By: *[Signature]*

Date: 2-1-93

LOUIS DREYFUS CORPORATION (LESSOR)

By: *[Signature]*
Lawrence J. Greenhall
Vice President

LISTING OF CARS FOR SCHEDULE A

UMP 020309	UMP 020755	UMP 020847
UMP 020319	UMP 020756	UMP 020848
UMP 020327	UMP 020757	UMP 020850
UMP 020426	UMP 020758	UMP 020851
UMP 020440	UMP 020759	UMP 020852
UMP 020442	UMP 020760	UMP 020856
UMP 020462	UMP 020761	UMP 020857
UMP 020464	UMP 020762	UMP 020881
UMP 020483	UMP 020763	UMP 020887
UMP 020504	UMP 020764	UMP 020888
UMP 020526	UMP 020765	UMP 020967
UMP 020527	UMP 020766	UMP 020970
UMP 020534	UMP 020767	UMP 020979
UMP 020544	UMP 020768	UMP 020986
UMP 020556	UMP 020769	UMP 020989
UMP 020557	UMP 020770	UMP 021000
UMP 020560	UMP 020771	UMP 021003
UMP 020564	UMP 020772	UMP 021018
UMP 020586	UMP 020773	UMP 021022
UMP 020595	UMP 020774	UMP 021034
UMP 020596	UMP 020775	UMP 021045
UMP 020598	UMP 020776	UMP 021201
UMP 020600	UMP 020777	UMP 021205
UMP 020601	UMP 020778	UMP 021206
UMP 020602	UMP 020779	UMP 021211
UMP 020603	UMP 020780	UMP 021212
UMP 020606	UMP 020781	UMP 021215
UMP 020608	UMP 020782	UMP 021219
UMP 020609	UMP 020783	UMP 021221
UMP 020611	UMP 020784	UMP 021223
UMP 020612	UMP 020785	UMP 021226
UMP 020615	UMP 020786	UMP 021228
UMP 020631	UMP 020787	UMP 021231
UMP 020636	UMP 020788	UMP 021233
UMP 020644	UMP 020789	UMP 021234
UMP 020653	UMP 020792	UMP 021236
UMP 020654	UMP 020793	UMP 021237
UMP 020666	UMP 020794	UMP 021238
UMP 020671	UMP 020795	UMP 021243
UMP 020675	UMP 020796	UMP 021244
UMP 020676	UMP 020797	UMP 021245
UMP 020692	UMP 020798	UMP 021249
UMP 020695	UMP 020799	UMP 021251
UMP 020697	UMP 020800	UMP 021253
UMP 020700	UMP 020801	UMP 021254
UMP 020710	UMP 020802	UMP 021258
UMP 020712	UMP 020803	UMP 021263
UMP 020713	UMP 020804	UMP 021265

UMP 020714
UMP 020715
UMP 020716
UMP 020717
UMP 020718
UMP 020719
UMP 020720
UMP 020721
UMP 020722
UMP 020723
UMP 020724
UMP 020725
UMP 020726
UMP 020728
UMP 020729
UMP 020730
UMP 020731
UMP 020732
UMP 020733
UMP 020734
UMP 020735
UMP 020736
UMP 020737
UMP 020738
UMP 020739
UMP 020740
UMP 020741
UMP 020742
UMP 020744
UMP 020745
UMP 020746
UMP 020747
UMP 020748
UMP 020749
UMP 020750
UMP 020751
UMP 020752
UMP 020753

UMP 020805
UMP 020806
UMP 020807
UMP 020808
UMP 020809
UMP 020810
UMP 020811
UMP 020812
UMP 020815
UMP 020816
UMP 020817
UMP 020818
UMP 020819
UMP 020820
UMP 020821
UMP 020823
UMP 020824
UMP 020825
UMP 020826
UMP 020827
UMP 020828
UMP 020829
UMP 020830
UMP 020831
UMP 020832
UMP 020833
UMP 020834
UMP 020835
UMP 020836
UMP 020837
UMP 020838
UMP 020839
UMP 020840
UMP 020842
UMP 020843
UMP 020844
UMP 020845
UMP 020846

UMP 021271
UMP 021272
UMP 021273
UMP 021274
UMP 021277
UMP 021278
UMP 021279
UMP 021281
UMP 021285
UMP 021289
UMP 021294
UMP 021295
UMP 021297
UMP 021305
UMP 021308
UMP 021314
UMP 021315
UMP 021316
UMP 021319
UMP 021327
UMP 021334
UMP 021336
UMP 021338
UMP 021341
UMP 120227
UMP 120404
UMP 120450
UMP 120467
UMP 120473
UMP 120500
UMP 120521
UMP 120533
UMP 120565
UMP 120597
UMP 120599
UMP 120640
UMP 120673

CERTIFICATE

I, Andrew P. Goldstein, hereby certify that I am an attorney duly admitted in the District of Columbia, and am a member in good standing of the Bar of the District of Columbia, and that I have, this 23rd day of March, 1993, compared the enclosed copy of a certain Lease of Covered Hopper Cars, dated November 1, 1992, between Louis Dreyfus Corporation, Lessor, and Northbrook Rail Corporation, Lessee, with the original document, and certify that it is complete and identical in all respects to the original document and Schedule A thereto.

Andrew P. Goldstein
Andrew P. Goldstein

Sworn to and subscribed before me this 23rd day of March, 1993.

Dona J. Palmer
Notary Public

My commission expires on March 14, 1998.